

AFFIDAVIT IN SUPPORT OF ARREST WARRANT

I, Jack A. Vickery, a Special Agent (SA) with the Federal Bureau of Investigation (FBI), being duly sworn, depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the Federal Bureau of Investigation (FBI), and have been so employed for over twelve years. Prior to being employed by the FBI, I was a sworn law enforcement officer in the State of Georgia for approximately seven years. As an FBI Special Agent, I am currently assigned to the FBI Cleveland Division, Akron Resident Agency.
2. As a federal agent, I am authorized to investigate violations of United States laws and to execute warrants issued under the authority of the United States.
3. I am investigating the activities of the person who utilized Kik username bk6755 with a display name Brad Kirkwood. As will be shown below, there is probable cause to believe that the user of Kik username bk6755 has received, possessed, and distributed child pornography, in violation of 18 U.S.C. §§ 2252 and 2252A. I submit this application and affidavit in support of an arrest warrant authorizing the arrest of MATTHEW PASSALAUQUA with a birth year of 1968 and a social security number ending in 2104.
4. The statements in this affidavit are based in part on information provided by the FBI's Springfield, Illinois field office and on my investigation of this matter. Since this affidavit is being submitted for the limited purpose of securing an arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set

forth only the facts that I believe are necessary to establish probable cause to believe that MATTHEW PASSALAUQUA committed violations of Title 18 §§ 2252 and 2252A.

STATUTORY AUTHORITY

5. This investigation concerns alleged violations of Title 18, United States Code, §§ 2252 and 2252A, relating to material involving the sexual exploitation of minors.
 - a. Title 18, United States Code, Section 2252(a) prohibits a person from knowingly transporting, shipping, receiving, distributing, reproducing for distribution, or possessing any visual depiction of a minor engaging in sexually explicit conduct when such visual depiction was either mailed or, using any means or facility of interstate or foreign commerce, shipped or transported in or affecting interstate or foreign commerce by any means, including by computer, or when such child pornography was produced using materials that had traveled in interstate or foreign commerce.
 - b. Title 18, United States Code, Section 2252A(a) prohibits a person from knowingly transporting, shipping, receiving, distributing, reproducing for distribution, or possessing any child pornography, as defined in 18 U.S.C. § 2256(8), when such child pornography was either mailed or, using any means or facility of interstate or foreign commerce, shipped or transported in or affecting interstate or foreign commerce by any means, including by computer, or when such child pornography was produced using materials that had traveled in interstate or foreign commerce.

BACKGROUND OF THE INVESTIGATION

6. This investigation was predicated upon an investigative referral from the FBI's field office in Springfield, Illinois based upon an undercover investigation on Kik Messenger.

Kik Messenger, commonly called Kik, is a proprietary instant messenger software application (app) for mobile devices. It uses a smartphone's data plan or Wi-Fi to transmit and receive messages, photos, videos, sketches, mobile webpages, and other content. Kik may also be accessed via laptop and desktop computers by downloading emulator software applications to these devices, such as Bluestacks or Andyroid. Kik is known for its features that preserve users' anonymity, such as allowing users to register without providing a telephone number, and preventing users from being located on the service (including by the company itself) through any information other than their chosen username. The app offers registered users the ability to initiate group chat, create Kik chat rooms, or to search for and join established KIK groups according to their interests.

7. On or about September 8, 2019, an FBI agent acting in an undercover capacity (hereafter "UC1") utilized Kik username "prvdad1980z" to post "Hey, perv dad here. anyone else into taboo no limits, PM me", in a group chat titled "Boysfun Men Only" with group ID "Pe.doph", on the mobile messaging application Kik. UC1 received a private message from Kik user bk6755 with display name Brad Kirkwood.
8. Kik user bk6755 stated he was into no limits and family fun and mostly enjoyed talking about pictures. Kik user bk6755 expressed a sexual interest in UC1's purported ten year old son and eight year old daughter. Kik user bk6755 was interested in meeting, but lived near Akron, Ohio. Kik user bk6755 then wanted to talk about scenarios and asked UC1 if UC1 had a picture to talk about.
9. Kik user bk6755 then sent an image depicting a female child approximately eight to ten years old laying on her back with her legs spread open exposing her genitalia. Kik user bk6755 and UC1 conversed about how they both enjoyed the picture. Kik user bk6755

then sent another picture depicting a pubescent female approximately 15 to 20 years old fully nude laying on her back with an erect penis inserted into her anus.

10. During the course of several days, Kik user bk6755 sent UC1 multiple images and videos depicting child pornography or child erotic material. One such video depicted a child less than ten years old with hair shorter than shoulder length, wearing no shirt, pants, and socks. In the video, the child is seen using both hands to rub an adult male's erect penis.
11. On September 9, 2019, at 7:03:26 PM (UTC+0), Kik user bk6755 sent a video that depicted two male children approximately eight to ten years old, one of whom was in a complete stage of undress and in a seated position. The second child used one hand to rub the first child's erect penis. During the video, a female toddler entered the room and watched as the second male child opened and dropped his pants, exposing an erect penis. The naked male child then proceeded to use one hand to rub the other male child's penis. While sending this video to UC1, Kik user bk6755 commented, "Look at this dude." Kik user bk6755 further described the video as "F***ing hot". UC1 asked where Kik user bk6755 found the video, to which Kik user bk6755 responded "Someone sent it".
12. On September 10, 2019, at 1:04:27 AM (UTC+0), Kik user bk6755 sent a video that depicted a male in a seated position, wearing a white t-shirt, and boxer shorts pulled down to expose his genitals. No other details of the male are visible. The male is seen masturbating until he ejaculates. Kik user bk6755 then indicated to UC1 that the male seen in the video was thirteen years old and that "this was live". The following date, UC1 asked Kik user bk6755 how he got "that live video from last night." Kik user bk6755 responded "Omegle. . . that's where I found that kid".

13. Based on investigations conducted by other FBI agents, as well as other investigators in the law enforcement community, I know that Omegle is a free online chat/ video conferencing Web site that randomly pairs users in one-on-one chat sessions where they can chat with strangers anonymously. I also know that Omegle is sometimes used to access and share child pornography. Based on the information available, it is not possible to determine if Kik user bk6755 recorded the video when it was live, or if he received the video from a third party.
14. On September 12, 2019, at 2:18:46 PM (UTC + 0), Kik user bk6755 then sent a live picture depicting a male approximately 40 to 50 years old, wearing glasses with a balding hair line. The picture was from the middle of the male's glasses to the top of the head. Kik user bk6755 also stated he worked at a grocery store.
15. On September 17, 2019, Kik Interactive responded to an administrative subpoena and provided subscriber data for user name bk6755.
 - a. First Name: Brad
 - b. Last Name: Kirkwood
 - c. Email: hbsg3453@yahoo.com
 - d. IP Analysis (ARIN whois): 70.61.42.126 and 173.89.92.218; Charter Communications
16. On September 20, 2019, Charter Communications responded to an administrative subpoena and provided subscriber data for the following IP addresses:
 - a. 70.61.42.126 assigned on September 5, 2019 at 2:21PM UTC. The subscriber was Heinens with a subscriber address of 20 Shopping Plaza, Chagrin Falls, OH 44022.
 - b. 173.89.92.218 assigned on September 5, 2019 at 11:40PM UTC. The subscriber was Heather Passalaqua with a subscriber address of 1575 8th Street, Cuyahoga

Falls, OH 44221, email address hpassalaqua4@gmail.com, and telephone number 216-375-7602.

17. Open source checks revealed a MATTHEW PASSALAQUA, with a birth year of 1968, home address 1575 8th Street, Cuyahoga Falls, OH 44221. The checks also revealed a grocery store at address 20 Shopping Plaza, Chagrin Falls, OH 44022.
18. Social media checks revealed a Facebook page with user name Matthew Passalaqua. The pictures on the Facebook page were consistent with the image Kik user bk6755 sent to UC1.
19. On or about October 21, 2019, I confirmed through Ohio Bureau of Motor Vehicle (BMV) records that MATTHEW and HEATHER PASSALAQUA resided at 1575 8th Street, Cuyahoga Falls, OH 44221.
20. On October 21, 2019, I also queried the Cuyahoga Falls Police Department in Cuyahoga Falls, Ohio for any records of contact for the PASSALAQUAS. I was advised that there were no reports on file for MATTHEW PASSALAQUA, but Heather Passalaqua was listed as having contacted the Cuyahoga Police Department in 2017 and January of 2019. In both instances, Heather Passalaqua provided a contact phone number of 216-375-7602, which matched the records obtained from Charter Communications on 09/20/2019.
21. On October 21, 2019, at approximately 5:00 PM, I drove by 1575 8th Street, Cuyahoga Falls, OH 44221 and observed a GMC Envoy SUV parked in the driveway. The vehicle bore Ohio license plate GEU7414. I later confirmed through Ohio BMV records that this vehicle is actively registered to MATTHEW PASSALAQUA at 1575 8th Street, Cuyahoga Falls, OH 44221. Additionally, MATTHEW PASSALAQUA also has 1999

Mercury Grand Marquis bearing Ohio license plate GHL9586 actively registered to him at that address.

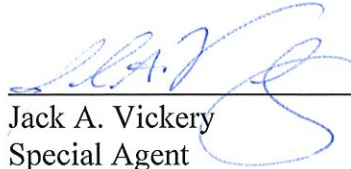
22. On November 15, 2019, at approximately 8:45 A.M., Affiant and other FBI agents contacted MATTHEW PASSALAQUA at his place of business in Chagrin Falls, Ohio. After identifying ourselves as federal agents, and explaining the nature of the FBI's investigation, I told PASSALAQUA that we had search warrants for his person and his gold Mercury Grand Marquis, which was located in the parking lot of the business. Agents seized a black iPhone 8 from PASSALAQUA, who surrendered the device from his left breast pocket. PASSALAQUA also provided the password to unlock his cell phone and stated that he did not possess any other mobile devices.
23. Affiant also told PASSALAQUA that other federal agents were executing a search warrants for his residence and his silver GMC Envoy, which was also located at the residence.
24. PASSALAQUA decided to drive separately from his place of work in Chagrin Falls, Ohio to his residence in Cuyahoga Falls, Ohio².
25. PASSALAQUA met agents at his residence in Cuyahoga Falls, Ohio at 10:30 A.M. I informed PASSALAQUA that he was not in custody, but advised PASSALAQUA of his Miranda Rights. PASSALAQUA agreed to speak with agents. PASSALAQUA stated that he was the only person who used his cell phone. He also recalled utilizing the app "Kik", but stated that had deleted it. PASSALAQUA recalled creating the Kik user name, "Brad Kirkwood" (aka bk6755) as an on-line alias, having recalled the name from a movie.

26. PASSALAQUA reviewed a printed copy of Kik conversations that occurred with UC1, including, but not limited to conversations detailed herein. PASSALAQUA confirmed that some of these text conversations took place while he was at work. PASSALAQUA viewed a photograph depicting the top half of his head, as referenced in paragraph 14 above, and confirmed that he took this photograph.

27. Images identified by UC1 were not included in the printed documents that PASSALAQUA reviewed. PASSALAQUA stated that he could not recall specific details of the images that he sent and received, but stated that all images were received from or sent to other Kik users, none of whom he could recall.


CONCLUSION

Based on the above information, there is probable cause to believe that MATTHEW PASSALAQUA committed violations of Title 18 §§ 2252 and 2252A. Accordingly, I respectfully request that this Court issue an arrest warrant for MATTHEW PASSALAQUA with a birth year of 1968 and a social security number ending in 2104



Jack A. Vickery
Special Agent
Federal Bureau of Investigation

Subscribed and sworn before me this 15th day of November 2019.



Kathleen B. Burke
United States Magistrate Judge